

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

OFFICE OF THE ATTORNEY GENERAL)	
COMMONWEALTH OF KENTUCKY)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 2005-00057
)	
ATMOS ENERGY CORPORATION)	
)	
DEFENDANT)	

ORDER TO SATISFY OR ANSWER

Atmos Energy Corporation ("Atmos") is hereby notified that it has been named as defendant in a formal complaint filed on February 1, 2005, a copy of which is attached hereto.

Pursuant to 807 KAR 5:001, Section 12, Atmos is HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 4th day of February, 2005.

By the Commission

ATTEST:


Executive Director

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

RECEIVED
FEB 01 2005
PUBLIC SERVICE
COMMISSION

**OFFICE OF THE ATTORNEY GENERAL
COMMONWEALTH OF KENTUCKY**

Case No. 2005-00057

Complainant

v.

ATMOS ENERGY CORPORATION

Respondent

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COMPLAINT

Pursuant to KRS 278.260, KRS 278.270, KRS 278.040, KRS 278.030 and 807 KAR 5:001 Section 12, the Office of the Attorney General for the Commonwealth of Kentucky ("Attorney General" or "Complainant") submits its Complaint to the Kentucky Public Service Commission ("Commission") against Atmos Energy Corporation ("Atmos" or "Respondent") and in support thereof state as follows:

1. That the Complainant is the Attorney General for the Commonwealth of Kentucky whose address is as follows:

Office of the Attorney General, Commonwealth of Kentucky
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

2. Counsel for Complainant is:

Dennis G. Howard, II
Elizabeth E. Blackford
David Edward Spenard
Assistant Attorneys General
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

3. That the Respondent Atmos Energy Corporation is a public utility, a gas distribution company, as defined in KRS 278.010 incorporated in the Commonwealth of Kentucky and whose address is as follows:

Atmos Energy Corporation
Three Lincoln Centre, Ste. 1800
5450 LBJ Freeway
Dallas, TX 75240
4. Counsel for Respondent is:

Hon. John Hughes
124 W. Todd Street
Frankfort, Kentucky 40601
5. Atmos is the exclusive retail natural gas supplier to approximately 180,443 customers located in many counties in Western Kentucky whose rates for service are set by the Kentucky Public Service Commission pursuant to application of the utility, investigation by the Commission, or customer complaint. The Kentucky Public Service Commission has jurisdiction and venue to hear this complaint under KRS 278.040, KRS 278.060 and 807 KAR 5:001 Section 12.
6. The Attorney General has the statutory obligation to represent utility consumers pursuant to KRS 367.150 (8).
7. Pursuant to KRS 278.060, KRS 278.030 and Kentucky law, Atmos is authorized to receive only fair, just and reasonable rates for service rendered to the public. The determination of whether gas rates are fair, just, and reasonable has historically been made by the Commission through an examination of the rate-of-return on common equity currently being earned by the public utility, compared against the fair, just and reasonable rate-of-return on common equity which should be earned based upon currently prevailing economic conditions. This was the rate setting methodology used by the Commission when Atmos' currently effective base rates were established in 1999 in PSC Case No. 99-070.
8. Since the Commission's 1999 Order in Atmos' last base rate case (Case No. 99-070) approximately five years have passed and economic conditions have changed. There have been substantial reductions in interest rates and inflation. Attached hereto as Exhibit "A" is the direct testimony of the Attorney General's witness Mr. Robert Henkes which shows that the fair, just and reasonable rate-of-return on

equity under currently prevailing market conditions for Atmos should be significantly less than the approximate 18% that it now earns according to ROE reports submitted to the Commission.

9. This Commission ordered a 10.5% Return on Equity for Delta Natural Gas Company by Order dated 10 November 2004. Earnings averaging 18% are well above returns on equity found to be fair, just and reasonable.
10. In order for the rates for gas service currently charged by Atmos to satisfy the requirements of KRS 278.260, KRS 278.270, KRS 278.040, KRS 278.030 and 807 KAR 5:001 Section 12, such rates must be significantly reduced. This rate reduction is in the public interest and necessary to protect the rights of Atmos' 180,000 customers. According to the Kentucky Supreme Court:

"Ratepayers have a right to expect reasonable utility rates. Regulators and utilities alike should respect that right."

* * *

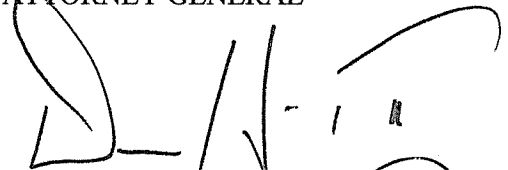
"If the protestants believe the overall rates are not fair, just and reasonable, they may seek remedy pursuant to KRS 278.260." Kentucky Industrial Utility Customers, Inc., et. al. v. Kentucky Utilities Company, et. al., 983 S.W. 2d 493, 497, 498. (Ky. 1998).

11. The requisite annual rate reduction should be allocated by the Commission to the various rate classes served by Atmos based upon fair, just and reasonable cost-of-service principles.
12. The Commission should issue an order requiring Atmos to answer this complaint since a prima facie case has been established that the current rates are not fair, just and reasonable and a rate reduction is in the public interest. The Commission should proceed expeditiously on this complaint given the large rate reduction to which the public is entitled. Pursuant to KRS 278.310, 278.320, 278.330 278.340, and 807 KAR 5:001, the Commission should establish a procedural schedule which will allow for discovery, testimony, a hearing and the submission of briefs and which will result in a final order as expeditiously as possible.

WHEREFORE, the Attorney General prays that the Commission make a determination that a prima facie case has been established that Atmos' rates are not fair, just and reasonable as required by KRS 278.030, KRS 278.260, KRS 278.040, KRS 278.270 and 807 KAR 5:001 Section 12; that the Commission require Atmos to answer this complaint; and that this matter be handled expeditiously.

Respectfully submitted,

GREGORY D. STUMBO
ATTORNEY GENERAL



Dennis G. Howard, II
Elizabeth E. Blackford
David Edward Spenard
Assistant Attorneys General

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502-696-5453 (FAX) 502-573-8315

**Attorneys For Complainant
Office of the Attorney General
Commonwealth of Kentucky**

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EXHIBIT A

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

**OFFICE OF THE ATTORNEY GENERAL
COMMONWEALTH OF KENTUCKY**

Complainant

v.

ATMOS ENERGY CORPORATION

Respondent

Case No. 2005-
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**DIRECT TESTIMONY
AND EXHIBIT
OF
ROBERT J. HENKES**

**On Behalf of the Office Of Rate Intervention Of The
Attorney General Of The Commonwealth Of Kentucky**

February 1, 2005

1 **Q. WOULD YOU STATE YOUR NAME AND ADDRESS?**

2 A. My name is Robert J. Henkes and my business address is 7 Sunset Road, Old Greenwich,
3 Connecticut 06870.

4
5 **Q. WHAT IS YOUR PRESENT OCCUPATION?**

6 A. I am Principal and founder of Henkes Consulting, a financial consulting firm that
7 specializes in utility regulation.

8
9 **Q. WHAT IS YOUR REGULATORY EXPERIENCE?**

10 A. I have prepared and presented numerous testimonies in rate proceedings involving electric,
11 gas, telephone, water and wastewater companies in jurisdictions nationwide including
12 Arkansas, Delaware, District of Columbia, Georgia, Kentucky, Maryland, New Jersey,
13 New Mexico, Pennsylvania, Vermont, the U.S. Virgin Islands and before the Federal
14 Energy Regulatory Commission.

15
16 **Q. WHAT OTHER PROFESSIONAL EXPERIENCE HAVE YOU HAD?**

17 A. Prior to founding Henkes Consulting in 1999, I was a Principal of The Georgetown
18 Consulting Group, Inc. for over 20 years. At Georgetown Consulting I performed the same
19 type of consulting services that I am currently rendering through Henkes Consulting. Prior
20 to my association with Georgetown Consulting, I was employed by the American Can
21 Company as Manager of Financial Controls. Before joining the American Can Company, I
22 was employed by the management consulting division of Touche Ross & Company (now
23 Deloitte & Touche) for over six years. At Touche Ross, my experience, in addition to

1 regulatory work, included numerous projects in a wide variety of industries and financial
2 disciplines such as cash flow projections, bonding feasibility, capital and profit forecasting,
3 and the design and implementation of accounting and budgetary reporting and control
4 systems.

5
6 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?**

7 A. I hold a Bachelor degree in Management Science received from the Netherlands School of
8 Business, The Netherlands in 1966; a Bachelor of Arts degree received from the University
9 of Puget Sound, Tacoma, Washington in 1971; and an MBA degree in Finance received
10 from Michigan State University, East Lansing, Michigan in 1973. I have also completed
11 the CPA program of the New York University Graduate School of Business.

12
13 **Q. WHAT IS THE SCOPE AND PURPOSE OF THIS TESTIMONY?**

14 A. I was engaged by the Office of Rate Intervention of the Attorney General of Kentucky
15 (“AG”) to conduct a limited earnings review of the Kentucky-jurisdictional operations of
16 Atmos Energy Corporation (“AEC”) in connection with the AG’s Complaint before the
17 Kentucky Public Service Commission (“KPSC” or the “Commission”). The purpose of
18 this testimony is to present to the Commission the findings and conclusions resulting from
19 this limited earnings review.

20
21 **Q. WHAT DOCUMENTATION HAVE YOU RELIED ON IN THIS LIMITED**
22 **EARNINGS REVIEW?**

23 A. In this limited earnings review, I have reviewed the following documentation:

- 1 ○ The Quarterly Return on Equity (ROE) reports of Kentucky's major water, electric
2 and gas utilities, including AEC-Kentucky. These ROE reports were included in
3 the Commission's 10/28/04 response to the AG's Open Records Request dated
4 10/25/04;
- 5 ○ AEC's "Kentucky Only" Annual Reports to the KPSC for 2003 and 2002;
- 6 ○ AEC-Kentucky's Statement of Income for the 12 months ended September 30,
7 2004;
- 8 ○ Various other AEC responses to information issued by the AG in this limited
9 earnings review;
- 10 ○ The Colorado Public Service Commission's Order dated September 8, 2004,
11 approving an Earnings Agreement concerning excess earnings of AEC-Colorado for
12 the years 2002, 2003, and 2004;
- 13 ○ The Tennessee Consumer Advocate's October 15, 2004, petition to the Tennessee
14 Regulatory Authority to require AEC to Show Cause that its rates are just and
15 reasonable and that it is not over-earning, and the accompanying Affidavit of
16 Stephen N. Brown; and
- 17 ○ The Kentucky Public Service Commission Order of November 10, 2004, in the
18 general rate case of Delta Natural Gas Company, Inc., PSC Case No. 2004-00067.

19

20 **Q. BEFORE DISCUSSING THE FINDINGS AND CONCLUSIONS OF YOUR**
21 **LIMITED EARNINGS REVIEW OF AEC-KENTUCKY'S OPERATIONS, COULD**
22 **YOU BRIEFLY SUMMARIZE THE ACTIONS TAKEN IN COLORADO AND**
23 **TENNESSEE REGARDING AEC'S EARNINGS IN THOSE JURISDICTIONS?**

1 A. On September 8, 2004, the Colorado Public Utilities Commission ("CPUC") approved an
2 Earnings Agreement between AEC-Colorado, the Colorado Office of Consumer Counsel,
3 and the CPUC Staff dated July 26, 2004. In this Earnings Agreement, AEC agreed to
4 return to its ratepayers and Energy Outreach Colorado a total amount of \$1,850,000 for
5 excess earnings in 2002 and 2003, to be refunded in the form of a bill credit to be issued on
6 or before January 31, 2005. The benchmark ROE number used to determine the 2002 and
7 2003 excess earnings of \$1,850,000 was 10.25%. The Earnings Agreement also provides
8 that 50% of any of AEC's 2004 earnings in excess of an ROE number of 10.25% would be
9 returned to the ratepayers. The 50% portion of any over-earnings for 2004 would be
10 returned to the ratepayers on or before July 1, 2005.

11
12 On October 15, 2004, the Consumer Advocate Department of the Attorney General of
13 Tennessee ("AG") filed a petition with the Tennessee Regulatory Authority ("TRA")
14 requiring AEC-Tennessee to show cause that its rates are just and reasonable and that it is
15 not over-earning. Recently, the TRA issued a rate decision concerning Chattanooga Gas
16 Company in which the TRA authorized CGC to earn an overall ROR of 7.42%. On August
17 31, 2004, AEC filed ROE reporting documentation with the TRA from which the AG
18 derived that AEC realized an overall ROR of 10.45% for the 12-month period ended June
19 30, 2004. As a result, the AG has concluded that AEC annually earns \$6.6 million more
20 from its natural gas service in Tennessee than AEC will earn when its tariffs incorporate an
21 overall rate of return of 7.42% rather than 10.45%.

22
23 **Q. WHAT ARE THE FIRST FINDINGS OF YOUR LIMITED EARNINGS REVIEW**
24 **CONCERNING AEC-KENTUCKY'S JURISDICTIONAL OPERATIONS?**

1 A. These first findings are presented on the attached Schedule RJH-1. This schedule shows
2 the actual achieved ROEs for a number of “12 months ended by quarter” periods from
3 9/30/2001 through 3/31/2004¹ for Kentucky’s major investor-owned water, electric and gas
4 utilities, including AEC-Kentucky. Schedule RJH-1 also shows the currently authorized
5 ROE from the last fully litigated rate case for each of these Kentucky utilities and the date
6 that this ROE was first authorized. As shown on this schedule, some of the currently
7 authorized ROE numbers date as far back as 1984 (KPC’s ROE of 16.50%), 1989
8 (Columbia’s ROE rate of 13.00%) and 1990 (AEC’s ROE rate of 12.50%) because all rate
9 cases for these utilities subsequent to these dates were settled without identifying a specific
10 new ROE rate. It is quite obvious that these old ROE rates are severely outdated within the
11 context of today’s financial performance measures and ROE determinations by the KPSC.

12
13 It should also be noted that, while the actually achieved ROE numbers on Schedule RJH-1
14 have been calculated and reported by the utilities based on Kentucky-jurisdictional
15 numbers, they represent “per books” financial results that have not been adjusted for KPSC
16 ratemaking principles. Despite this fact, I believe that these reported “per books” ROE
17 numbers can certainly be relied upon to draw conclusions as to how the utility is doing
18 financially and whether the utility is earning in excess of either its authorized ROE (if this
19 ROE was recently decided by the KPSC), or is earning in excess of an ROE number that
20 can be considered fair and reasonable in today’s financial environment (if the authorized
21 ROE for the particular utility is an old, outdated ROE).

22
23 With regard to AEC-KY’s actually achieved ROE numbers, the following findings can be

¹ The ROE information presented on Schedule RJH-1 is derived from the Quarterly ROE/TIER Reports to the KPSC. ROE data through March 31, 2004, was available to the AG at the time this testimony was prepared.

1 derived from the information on Schedule RJH-1:

- 2 • From the 12-month period ended 9/30/01 through the 12-month period ended 3/31/04,
3 AEC-KY's actual ROE averaged approximately 19.40%;
- 4 • AEC-KY's most recent reported actual achieved ROE for the 12-month period ended
5 March 31, 2004, is approximately 18%;
- 6 • There is no discernible downward or upward trend in AEC-KY's actual ROE
7 numbers for the "12-month ended by quarter" annual periods from 9/30/01 through
8 3/31/04; the ROE numbers fluctuate upwards and downwards with an average ROE
9 level of 19.40%;
- 10 • AEC-KY's actual ROE for each of the nine "12-month ended by quarter" annual
11 periods in 2002, 2003, and 2004 to date ranged from a low of 17.56% to a high of
12 23.71% and averaged approximately 20%. This is 750 basis points in excess of AEC-
13 KY's ROE of 12.50% authorized back in 1990 and 950 basis points in excess of -- or
14 close to twice as high as -- the most recent KPSC-authorized gas utility ROE of
15 10.50%² established in the fully-litigated Delta Natural Gas rate case (KPSC Case
16 No. 2004-00067) concluded on November 11, 2004 .

17
18 **Q. DID YOU FIND ADDITIONAL EVIDENCE IN YOUR LIMITED EARNINGS**
19 **REVIEW INDICATING THAT AEC-KENTUCKY IS EARNING IN EXCESS OF A**
20 **REASONABLE ROE?**

21 A. Yes. This over-earnings evidence is presented on the attached Schedules RJH-2 through
22 RJH-4.

23
24 Schedule RJH-4 contains AEC-Kentucky average rate base and capitalization information
25 for the years 2002 and 2003, as well as calculations regarding the Company's effective cost

² The KPSC also authorized ROEs of 10.50% for Louisville Gas & Electric and Kentucky Utilities in their respective rate cases, Case No. 2003-00433 and Case No. 2003-00434, concluded by KPSC Order dated June 30, 2004.

1 of debt for these same two years. All of this information was derived from the Company's
2 "Kentucky Only" Annual Reports to the KPSC. As shown in the first column of Schedule
3 RJH-4, similar information for the 12-month period ended September 30, 2004, could not
4 be prepared due to lack of comparable data. Although the AG requested average rate base
5 and capitalization balances in the same format as per the "Kentucky Only" KPSC Reports
6 and information to determine the effective cost of debt for the 12-month period ended
7 September 30, 2004, the Company refused to provide this information.

8
9 Schedule RJH-3 shows AEC-Kentucky's Net Operating Income information for calendar
10 years 2002, 2003 and the 12-month period ended September 30, 2004. The income
11 information for the years 2002 and 2003 were taken from the Company's "Kentucky Only"
12 Annual Reports to the KPSC, whereas the income data for the 12 months ended September
13 30, 2004, were derived from the "Statement of Income – 12 Months Ended September 30,
14 2004" that was provided by the Company in response to AG discovery.

15
16 Schedule RJH-2 combines the rate base, capitalization, debt cost and net operating income
17 information from Schedules RJH-3 and RJH-4 in order to (1) determine AEC-Kentucky's
18 actually achieved overall rate of returns on rate base and capitalization; and (2)
19 approximate the ROE components of these overall rate of return numbers assuming a
20 capital structure debt/equity ratio of 50/50. Schedule RJH-2 also shows the calculated
21 revenue requirement impact associated with the difference between the actual achieved
22 ROE numbers and a benchmark ROE rate of 10.50%. As shown in the first column of
23 Schedule RJH-2, this information could not be presented for the 12-month period ended

1 September 30, 2004, because comparable rate base, capitalization and debt cost
2 information was not available for this period.

3
4 With regard to AEC-KY's actually achieved ROE numbers and the associated revenue
5 requirement implications of the difference between these actually achieved ROE numbers
6 and a benchmark ROE of 10.50%, the following findings can be derived from the
7 information on Schedule RJH-2:

- 8 • AEC-Kentucky's actually achieved ROE numbers (assuming 50% equity ratio) using
9 rate base as the measurement base were 18.30% in 2003 and 17.13% in 2002 (see line
10 6);
- 11 • The required annual rate decrease levels associated with the reduction of these ROE
12 rates of 18.30% and 17.13% to the benchmark ROE of 10.50% would be
13 approximately \$8.7 million and \$7.4 million, respectively (see line 7);
- 14 • AEC-Kentucky's actually achieved ROE numbers (assuming 50% equity ratio) using
15 capitalization as the measurement base were 16.60% in 2003 and 15.27% in 2002
16 (see line 13);
- 17 • The required annual rate decrease levels associated with the reduction of these ROE
18 rates of 16.60% and 15.27% to the benchmark ROE of 10.50% would be
19 approximately \$7.4 million and \$5.8 million, respectively (see line 14);

20
21
22 A. Based on the previously discussed findings, I have reached the following conclusions:

- 23 1. AEC-KY's current ROE in Kentucky is not a fair rate of return;
- 24 2. Similar to AEC's earnings experience in Colorado and Tennessee, AEC is
25 significantly over-earning in the Kentucky jurisdiction;
- 26 3. Kentucky consumers who receive natural gas service from AEC-KY are
27 economically burdened with gas prices higher than needed for AEC to deliver gas

1 services. Such gas prices should be reduced to achieve just and reasonable utility
2 rates for AEC-Kentucky's consumers.
3
4

5 **Q. MR. HENKES, DOES THIS CONCLUDE YOUR TESTIMONY?**

6 A. Yes, it does.
7
8
9
10
11

COMMONWEALTH OF KENTUCKY

RETURN ON EQUITY - TWELVE MONTHS ENDED BY QUARTER

	KAWC	KPC	ULH&P Elec.	ULH&P Gas	KU	LG&E Elec.	LG&E Gas	COL.	DELTA	AEC-KY
Authorized Date	11.00% Nov-00	16.50% Dec-84	11.50% May-92	11.00% Jan-02	11.50% Jan-00	11.50% Jan-00	11.25% Sep-00	13.00% Oct-89	11.60% Dec-99	12.50% Sep-90
		*						*		*
12-Month Ended:										
3/31/2004	7.19%	10.80%	6.35%	9.45%	9.21%	9.96%	6.44%	11.11%	4.08%	17.94%
12/31/2003	7.75%	11.39%	8.02%	9.83%	8.01%	10.37%	6.62%	14.50%	4.82%	17.56%
9/30/2003	6.78%	7.34%	8.60%	8.63%	10.07%	10.01%	6.58%	14.71%	7.91%	23.71%
6/30/2003	8.27%	6.75%	10.72%	8.66%	8.91%	10.43%	7.14%	12.58%	7.95%	19.52%
3/31/2003	9.02%	10.80%	12.16%	10.84%	18.84%	11.45%	5.89%	10.53%	6.95%	17.93%
12/31/2002	8.85%	5.15%	11.80%	11.01%	8.37%	9.66%	6.21%	13.47%	7.89%	21.56%
9/30/2002	9.08%	9.09%	17.83%	6.76%	13.16%	17.94%	20.04%	14.71%	7.91%	23.71%
6/30/2002	9.85%	9.75%	15.82%	7.16%	9.35%	18.70%	20.87%	12.58%	7.95%	19.52%
3/31/2002	10.48%	5.61%	15.79%	15.79%	15.46%	19.90%	21.90%	10.53%	6.95%	17.93%
12/31/2001	11.85%	7.93%	18.40%	18.40%	11.74%	12.35%	7.22%	10.43%	7.50%	15.90%
9/30/2001	9.85%	6.01%	18.90%	18.90%	7.67%	5.64%	-2.90%	13.32%	8.56%	17.95%

* ROE is from last litigated rate case; all subsequent rate cases have been settled.

NOTES:

- Source of the above ROE information is the Quarterly ROE/TIER Reports to the KPSC
- ROE calculations based on the amounts reported by utilities in their monthly financial reports.

ATMOS ENERGY - KENTUCKY
RETURN ON EQUITY AND EXCESS REVENUE CALCULATIONS

Sch. RJH-2

	12 Months Ended - \$000			
	9/30/2004	12/31/2003	12/31/2002	
1. Rate Base	NA	\$ 133,153	\$ 132,823	Sch. RJH-4
2. Adjusted Utility Operating Income	15,650	15,371	14,730	Sch. RJH-3
3. Achieved Return on Rate Base	NA	11.54%	11.09%	L2 / L1
4. Weighted Cost of LT and ST Debt Assuming 50% Debt Ratio	NA	2.39%	2.53%	(1)
5. Equity Return Portion of Achieved Return on Rate Base	NA	9.15%	8.56%	L3 - L4
6. Achieved Return on Equity Assuming 50% Equity Ratio	NA	18.30%	17.13%	L5 / 50%
7. Required Rate Decrease to Bring ROE Down to ROE of 10.50%	NA	\$ 8,712 (2)	\$ 7,381	
8. Adjusted Capitalization	NA	\$ 143,733	\$ 144,982	Sch. RJH-4
9. Adjusted Utility Operating Income	15,650	15,371	14,730	Sch. RJH-3
10. Achieved Return on Capitalization	NA	10.69%	10.16%	L9 / L8
11. Weighted Cost of LT and ST Debt Assuming 50% Debt Ratio	NA	2.39%	2.53%	(1)
12. Equity Return Portion of Achieved Return on Capitalization	NA	8.30%	7.63%	L10 - L11
13. Achieved Return on Equity Assuming 50% Equity Ratio	NA	16.60%	15.27%	L12 / 50%
14. Required Rate Decrease to Bring ROE Down to ROE of 10.50%	NA	\$ 7,351 (3)	\$ 5,798	

(1) 2003: Sch. RJH-4 interest rate of 4.78% x 50%= 2.39%

2002: Sch. RJH-4 interest rate of 5.05% x 50%= 2.53%

(2) Calculation: $[(18.30\% - 10.50\%) \times \text{equity ratio of } 50\% \times \text{rate base of } \$133,153] \times \text{income tax gross-up multiplier of } 1.6768$

(3) Calculation: $[(16.60\% - 10.50\%) \times \text{equity ratio of } 50\% \times \text{capitalization of } \$143,733] \times \text{income tax gross-up multiplier of } 1.6768$

**ATMOS ENERGY - KENTUCKY
OPERATING INCOME DATA**

Sch. RJH-3

	12 Months Ended - \$000		
	<u>9/30/2004</u>	<u>12/31/2003</u>	<u>12/31/2002</u>
	(2)	(1)	(1)
Operating Revenues:			
Gas	\$ 183,327	\$ 173,795	\$ 132,220
Transportation	9,043	8,346	8,588
Other	2,746	2,504	2,124
Total	<u>195,116</u>	<u>184,645</u>	<u>142,932</u>
Purchased Gas (Production Exp.)	142,549	133,083	90,235
Gross Profit	<u>52,567</u>	<u>51,562</u>	<u>52,697</u>
Other O & M Expenses:			
Storage & Processing	228	195	253
Transmission	369	403	417
Distribution	5,334	5,304	6,256
Uncollectibles	518	1,283	(5)
Other Customer Accts Exp.	1,965	1,939	2,061
Customer Service	334	297	269
Sales	123	208	167
Administrative & General	9,002	6,528	8,102
Total Other O&M Expenses	<u>17,873</u>	<u>16,157</u>	<u>17,520</u>
Depreciation & Amortizations	9,412	10,420	10,773
Taxes o/t Income Taxes	2,543	2,900	2,719
Income Taxes	7,089	6,714	6,155
Net Utility Operating Income - Per Books	<u>\$ 15,650</u>	<u>\$ 15,371</u>	<u>\$ 15,530</u>
Pro Forma Net Income Adjustments	<u>-</u>	<u>-</u>	<u>(800) (3)</u>
Pro Forma Adjusted Net Utility Income	<u><u>\$ 15,650</u></u>	<u><u>\$ 15,371</u></u>	<u><u>\$ 14,730</u></u>

(1) Per "Kentucky Only" Annual Reports to KPSC.

(2) Per "Statement of Income - 12 months ended 9/3/04" provided by ATMOS in response to AG requests for information and ATMOS response to AG requests for information, question "Item 3."

(3) See Case No. 2003-00305 PSC DR Item 2 response, Part a, line 1 and footnote [1]: remove after-tax income of \$800,000 in 2002 and add after-tax income of \$400,000 in 2001 and 2000 to adjust for the fact that there was a \$1.3 million uncollectible expense credit booked in 2002 that related back to 2001 and 2000.

ATMOS ENERGY - KENTUCKY
RATE BASE AND CAPITALIZATION DATA

Sch. RJH-4

	12 Months Ended - \$000		
	9/30/2004	12/31/2003	12/31/2002
<u>AVERAGE RATE BASE</u>	(2)	(1)	(1)
- Gas Plant in Service (101-106,114)	NA	\$ 246,994	\$ 245,474
- CWIP (107)	NA	3,922	5,790
- Accumulated Depreciation (108,111,115)	NA	(113,357)	(115,369)
- Net Utility Plant	NA	137,559	135,895
- Additions:			
- Gas Stored Underground (Non-Current)	NA	1,695	1,695
- Cash Working Capital (1/8th of O&M)	2,234	2,020	2,189
- Materials and Supplies (154,163)	NA	17	119
- Prepayments (165)	NA	276	1,556
- Gas in Storage (Current) (164.1)	NA	18,556	16,671
- Total Rate Base Additions	NA	22,564	22,230
- Deductions:			
- Net ADIT (281-283, 190)	NA	(22,389)	(20,281)
- Customer Advances for Construction (252)	NA	(4,581)	(5,021)
- Total Rate Base Deductions	NA	(26,970)	(25,302)
- Total Net Rate Base	NA	\$ 133,153	\$ 132,823
<u>AVERAGE CAPITALIZATION</u>			
- Equity/LT Debt/ST Debt - Per Books	NA	\$ 124,033	\$ 125,282
- Pro Forma Equity Add-Back for MPL	NA	19,700 (3)	19,700 (3)
- Pro Forma Adjusted Capitalization	NA	\$ 143,733	\$ 144,982

	12 Months Ended - \$000		
	9/30/2004	12/31/2003	12/31/2002
<u>COST OF DEBT</u>			
LT Debt Interest & Amort. Exp. (427,428)	NA	\$ 6,209	\$ 6,172
Avg. LT Debt Balance (221,231)	NA	\$ 100,693	\$ 94,989
Effective LT Debt Interest Rate	NA	6.17%	6.50%
LT & ST Debt Int. & Amort. Exp.	NA	\$ 6,562	\$ 6,758
Avg. LT & ST Debt Balances	NA	\$ 137,170	\$ 133,771
Effective LT and ST Debt Interest Rate	NA	4.78%	5.05%

(1) Per "Kentucky Only" Annual Reports to KPSC. Rate base and capitalization balances are average of each year's beginning and ending balances.

(2) Average rate base and capitalization balances in the same format as per the "Kentucky Only" KPSC Reports and information to determine the effective cost of debt was requested by the AG, but not provided by ATMOS in response to these requests.

(3) See Case No. 2003-00305 PSC DR Item 2 response, Part a, line 3 and footnote [2]: add-back to equity balance to reverse Minimum Pension Liability related OCI booking made in 2002.

In Re the Matter of:

**OFFICE OF THE ATTORNEY GENERAL
COMMONWEALTH OF KENTUCKY**

Complainant

v.

ATMOS ENERGY CORPORATION

Respondent

Case No. 2005-

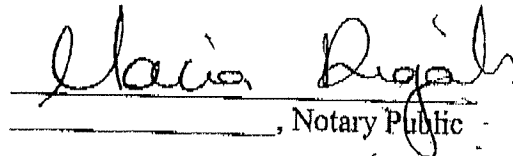
Comes the affiant, Robert J. Henkes, and being duly sworn, states that the foregoing testimony and attached schedules were prepared by him and are, to the best of his information and belief, true and correct.



Robert J. Henkes

State/Commonwealth of: CT
County of: Fairfield

Subscribed and sworn to before me by the affiant, Robert J. Henkes, this _____ day of 1st Feb, 2005.



_____, Notary Public

MARIA RIGAKOS
NOTARY PUBLIC
My Commission Expires January 31, 2008